



Promotion

JES

Reform

Band 4 Officer

Stress

PSPRB

Empowerment

Northern Ireland

Job Evaluation

Legal Representation

Professional Matters

# C & R retainer agreed

## So why the restraint from NOMS?

*By John Attard, PGA National Officer*

**In 2015 NOMS agreed that governor grades would be paid a retainer to do the full C&R annual refresher training so where is it?**

**A** long habit of not thinking a thing wrong gives it the superficial appearance of being right. And so it is with governor grades continuing to do C&R.

In August 2014, NOMS produced a draft PSI which made proposed amendments to the Use of Force PSO 1600. This amendment included the introduction of mandatory full C&R annual refresher training for governor grades. The purpose of this change was to ensure that NOMS could provide operational resilience in the event that there were severe staff shortages either through industrial action or flu pandemic. As a responsible trade union and professional body, the PGA agrees that in the interests of protecting the public, staff and prisoners, the service should have contingencies, which provide backup in emergencies. However, as a trade union, we also believe that this should not be done in a way that exploits our members.

When the PGA opposed the changes, NOMS was extremely robust in its response stating that the PSI was simply restating what was already in place and threatened disciplinary action if governor grades refused to attend full C&R training.

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# Professional matters

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*By Andrea Albutt, PGA President*

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The speed and complexity of the Reform agenda is quite overwhelming and confusing for the PGA at present. Trying to keep pace with strategic policy development in the Ministry of Justice, along with significant structural and other changes within HMPPS has added another confusing dynamic of having two masters. The consultation has been poor until fairly recently, with the PGA often being presented with *fait accompli* changes. Some of this we believe has been down to lack of understanding of the consultation process, certainly in the Ministry, but also an extremely tight timescale driven by Ministers. To be sent documents for a meeting on the morning of the meeting is wholly unacceptable and we have communicated this to Employee Relations on a number of occasions. The Association has been tenacious in demanding that IRPA is followed and to give us breathing space to discuss changes, their impact on the Service and our Members and to provide a sensible

response, which safeguards both. We have been clear with the Secretary of State and Prisons Minister that we want to work with them as we are not against Reform, but it has been the most challenging time to date for the PGA.

The profile of the PGA remains high within the Media, Parliamentary Committees and many lobby and prison reform groups. This is a very positive position to be in as we are seen as the voice of reason and fact. With this profile comes significant commitment by the President and National Officers, requiring immediate response in a 24 hour news culture, a current Parliament which has prisons extremely high on the agenda and many other groups which request our attendance at functions. Sadly we have to be selective on who we respond to, purely based on volume. We will continue to commit a significant amount of our own time maintaining this profile.

The PGA is driven by its members. Engagement from

you is critical in determining what our focus and business is on a daily, monthly and yearly basis. We often second guess this business as the speed of change is so fast that some of our annual conference mandate must be replaced with new and more pressing issues. When we receive affirmation from the membership that we are doing the right thing do not underestimate how energising and motivational it is. It is probably the most important factor that keeps us going, particularly in the current challenging times.

Thank you.

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The PGA has consistently advocated governor grades fully participating in annual C&R refresher training, when able to do so, but we are also absolutely clear that it is **not** a mandatory requirement that forms part of our Terms and Conditions of Employment (T&Cs). Any attempt, therefore, to introduce this requirement was an attempt to alter our T&Cs without negotiation, which is against the law.

Many governor grades enjoy carrying out C&R training and most governor grades also enjoy going to work. However, how many governor grades would go to work for no pay? There is no difference with C&R - providing a skill and a service has a value. That value increases if it is provided in emergencies, at short notice, particularly if it can only be delivered by a handful of qualified individuals. This is no different to the emergency services that we rely upon in our time of need. We expect them to arrive when called but we accept that this has a cost. Providing operational resilience by doing C&R training has **not** been built into governors' salaries - a point the PSPRB acknowledged in its last report.

This issue is not just about asking NOMS to treat governors with an even hand; it is also about protecting job security and safeguarding our members' physical and mental health wellbeing.

The PGA has taken on a number of personal cases where governor grades have been referred to occupational health for assessment of their suitability to carry out C&R duties with the veiled threat of being dismissed or regraded if they cannot. We have been successful in defending these cases but not without the member of staff and their families having to suffer the anxieties that accompany the prospect of losing your job.

After a number of meetings between NOMS and the PGA, and an exchange of a number of letters over a period of many months, NOMS eventually conceded.

**PSPRB: "The agreement also notes that discussions will consider additional financial remuneration for this."**

They agreed with the PGA that the use of force was a term and condition of employment and that since it is not in our T&Cs, governor grades could not be forced to carry out full

annual C&R refresher training. This means that if NOMS want governor grades to carry out C&R training then they would be required to negotiate with the union that represents ninety per cent of governors in the UK - the PGA. Or, put another way, NOMS and the PGA will need to reach an agreement on what value is placed on the operational resilience, and peace of mind, governor grades provide which, up until this point, had been taken for granted.

NOMS then wrote to the PGA on 10 August 2015, a year after the PGA first challenged NOMS, and stated, in part:

*"...The new PSI will be issued without reference to operational managers.*

*I remain keen on reaching an agreement with the PGA on this issue, and would like to discuss this as part of the upcoming pay and reward meetings, ahead of the Pay Review Body (PSPRB) evidence submission... I look forward to updates on the progress of the discussions."*

The PGA and NOMS then made their respective submissions to the PSPRB, which included reference to a C&R retainer - a financial incentive to encourage governors to volunteer to complete C&R training. This was now a formally agreed position and appeared in the

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PSPRB report. The relevant paragraph read:

*“This year, NOMS and the PGA have agreed a joint proposal to increase the percentage payment for RHA to 17 per cent. The parties told us there had been a rise in reported incidents and that governors were being called in more frequently. **As part of this joint agreement, NOMS and the PGA are committed to entering into constructive discussions on Control and Restraint training and operational managers potentially being deployed as required. The agreement also notes that discussions will consider additional financial remuneration for this.**”*

Since the publication of the PSPRB report NOMS’ enthusiasm to reach an agreement has waned and it remains outstanding. Why is this? Is it that NOMS’ believes that the operational resilience governors provide is no longer required or is it because NOMS believes that we will continue to provide the operational resilience for free as we have always done? This latter position is probably not an unreasonable assumption if previous behaviour is anything to go by. The fact is, being taken for granted is something we now take for granted and NOMS appears happy to oblige. Despite the recent increase in

disturbances in prisons NOMS clearly feels confident that governor grades will continue to step up, irrespective of how they are treated or how many promises are broken.

Some of our members may believe that the current position is acceptable because that is what we have always done and the resilience we provide is important. It is true that without prison governors NOMS could not provide the operational resilience if staff walked out. However, with the ever-increasing importance and application of health and safety laws this position becomes riskier on both a safety level and a legal one. It is also no longer tenable on a moral and ethical basis when we have had a decade of below-inflation pay ‘awards’ and the latest contemptible pay and pension proposals linked to prison reform.

So, where are we now? NOMS wrote to the PGA again on 15 March, seven months after its first letter. The relevant points of that letter were:

*“I write further to the FTA that was submitted by the PGA on 5 February, in the hope that we can find a resolution which will enable us to move forward without the need to enter into an external process, not least because it is our firm desire to*

*be able to recommence engagement with you on issues such as the proposed Control and Restraint retainer.*

*... I therefore request that the PGA withdraws the FTA, and enable us to recommence meaningful discussions as soon as possible.”* This letter was clearly a demand for the PGA to halt its dispute with NOMS and, in return, NOMS would discuss how much the C&R retainer was worth.

The FTA referred to was in regards to JES and the PGA’s continued contention that it fails to adequately reward operational manager jobs compared with non-operational. (See separate article)

Following an emergency PGA NEC meeting, we agreed to withdraw the FTA. The reason we agreed to withdraw it was not due to it lacking merit but to provide NOMS with another opportunity to address our issues relating to a payment for C&R. This was a considerable concession on our part as NOMS, following a meeting facilitated by ACAS in July 2014, had already agreed to re-evaluate all operational manager job descriptions. This was confirmed in a letter from NOMS dated 1 August 2014 and is has still not been done.

Having withdrawn the FTA I regret to report that NOMS

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wrote back on 29 March stating:

*“...With regards to the C&R retainer payment, this issue will form part of the Prison Reform discussions. I am grateful for your willingness to be involved with and contribute to the Reform agenda.”*

This was a disappointing response and what can only be described as, at best, sleight of hand. I would go further and say NOMS has reneged on what was pledged in its letter dated 5/2/16, “...to recommence meaningful discussions as soon as possible.”

It is difficult to imagine how NOMS can explain what a C&R retainer has to do with prison reform and how discussing it as part of prison reform can be considered, “...as soon as possible”.

Whether the change in position from NOMS regarding the C&R retainer is a tactical decision based on the belief that they have a stronger hand will be for individuals to decide, taking into account everything that has been shared in this article. However, it came to light at a subsequent meeting that NOMS wanted to use the C&R retainer issue as a “negotiation piece” in our future talks on prison reform. Even in the most cordial of relationships between a union and employer there will

inevitably be matters on which they disagree and need to negotiate. That is a healthy way to manage an organisation as this approach often yields better outcomes. The PGA has always approached disputes with NOMS in a constructive manner, recognising that there are occasions when we

**We will not be intimidated into conceding ground on important issues for short term gain with damaging long term implications.**

need to agree to disagree. We would expect NOMS to behave equally maturely. It seems wholly improper, therefore, and lacking in decorum, for NOMS to attempt to use one issue as a “negotiation piece” to weaken our negotiations on every other future issue. This leaves an unpleasant taste particularly since prior assurances were given.

When this article was written the PGA’s response had been to agree to continue with discussions but keeping all options open. It will be you, the membership, who determines how this issue is resolved in that if you choose to do C&R training with no financial remuneration then

there is no need for NOMS to pay you to volunteer. (See *separate article on the Professionalization of Officers in regards to volunteering*). It is the PGA’s duty to fight for your rights and inform you of the position. We will not, therefore, be intimidated into conceding ground on important issues for short-term gain but long-term detrimental implications.

Since writing this article (some months ago) the PGA has met with NOMS to negotiate on matters under the heading of ‘Prison Reform’. These talks took place in May and again in November, 2016. We then held a special delegates’ conference in January 2017 to discuss the pay and pension offer that was put to the PGA, which included our members being mandated to complete C&R. At that conference, delegates were so incensed with the ‘offer’ that an emergency resolution was submitted and accepted, which rejected the offer and instructed the PGA NEC to go back to NOMS, which we have done.

In regards to C&R this is the extant position:

1. NOMS agreed to **pay** governor grades a ‘C&R retainer’ to carry out full C&R training
2. Governor grades are **not** required to participate in

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the full annual C&R refresher training

3. Governor grades **cannot** be referred to the OHA to be assessed for their suitability to carry out C&R
4. Job adverts that stipulate governor grades are required to be 'in date' in C&R are **invalid** and most have been amended to reflect this
5. Governor grades can provide C&R operational resilience but this is **voluntary**

The cat is out of the bag. It is difficult to imagine that all governor grades will still be happy to continue to provide their services for free. I will not. The previous advice from the PGA that members should do C&R training if they are fit seems somewhat contradictory now given the behaviour of NOMS. We can no longer give such advice without risk of being accused of hypocrisy – a union advising its members to undermine its own negotiating position which advocating the continued participation in C&R training would undoubtedly do. NOMS has relied a lot on governors' good will, which is not inappropriate on occasions, provided it is not taken for granted or abused and is reciprocated.

NOMS continues to find ways to frustrate and renege

on assurances and block every attempt we make to seek fair remuneration for the service you provide.

There is an ever-increasing reliance on us to carry out officer duties to cover for shortfalls in staffing be that through predicted staff shortages or because staff have retreated to places of safety. The hourly rate for overtime for officers has increased with the realisation that good staff will not do it for less. PGA members, including governing governors, have informed the association that some of their staff are earning more than they are. Since it seems to be standard practice for governors to work in excess of their contracted 37 hours governors' hourly rates also work out to be less than the staff they are managing. That cannot be right or sustainable.

The icing on this rather bitter cake was the recent discovery that NOMS were given authority to speak with the Prison Officers' Association in regards to pension reform following their members' rejection of the prison reform offer. We have no comment to make on the consultation with other unions but on this issue, we agree that expecting operational staff to work until they are 67 or 68 is neither decent nor safe and not what

most staff signed up to. We wrote to NOMS seeking clarification as to the reasons for not approaching the PGA with a similar mandate - was the omission an oversight or deliberate? The answer we got was that it was not an oversight and that the Ministry of Justice had not given NOMS authority to consult about an earlier retirement age for prison governors, even though NOMS had asked them to. That is notwithstanding that prison governors are the sole providers of the operational resilience relied upon in cases of industrial action or other mass staff absences. We can only speculate as to the reason for that decision but it would not be unreasonable to assume that MoJ has been informed that governors will continue to step in when others walk out, irrespective of how they are treated.

There is much more that can be said about pensions which we will cover in a separate article but suffice it to say it seems a strange way to treat governors, particularly in the current climate and the support we have given to the Justice Secretary.

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## Welcome to the fourth edition of the PGA Newsletter

Welcome to the fourth edition of the PGA newsletter. This edition has been a long time coming for a number of reasons, not least the constant changes being introduced and the need to be in a state of permanent consultation. This edition will not cover all of the challenges that we are currently facing as we wanted to get it published sooner rather than never.

Two of the most challenging questions any union faces is how best to represent its members effectively and how do we know if we are accurately capturing their mood and concerns. The constant feedback we get in the office would suggest we are getting it right. However, it was at the Special Delegates' Conference in January at Newbold Revel that gave us the clearest sign yet that we are challenging NOMS on issues that matter most to you. This edition of the PGA Newsletter captures some of them and its tenor has been set to reflect that. The PGA will continue to represent governors on professional matters important to running prisons and it will also not shy away from tackling union disputes that impact not just on those professional considerations but personal concerns too, such as stress, pay, hours worked, time off, support, and fair treatment. The balance between professional and union issues will vary according to what is happening at the time between the employer and the association. At this point in time it would be true to say that union issues are the dominant concern as pay continues to be driven down in relative terms and the ramping up of governor accountability continues with decreasing autonomy. This means that governors risk being held to account for matters beyond their control.

Some of the articles in this edition will provide just an overview of matters on which we are currently in consultation over and more detail will be provided as these progress. The extensive detail reproduced in other articles has been provided in order to get the point across that NOMS, at times, behaves in a way that will surprise many of our members, which we believe the membership needs to know.

I hope you find this edition interesting, revealing and reassuring.

John Attard  
Editor

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# Legal Representation at Inquests

## Don't take it for granted

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By a PGA Member

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The PGA has been contacted on a number of separate occasions by members in surprise and, in some cases, desperation regarding the lack of legal support being provided for governors at Inquests in certain situations. Despite clearly set out guidelines on the very high threshold to be applied before refusing to provide legal representation, NOMS continues to make mistakes. The latest case was of such a concern we asked the individual member to provide a personal account. We are very grateful to them for sharing it with us. Read their compelling story:

### **INQUEST: A personal account and reflections of a PGA member**

*(Some information has been redacted to protect the identification of certain individuals)*

I was Duty Governor on the night a prisoner was received into custody who, I am very sad to say, subsequently took his own life. This took place in 2011. It was in 2014 that I was named as a properly interested person for the Inquest into this case. To my surprise it was decided that I would receive **NO** legal representation at the Inquest from Treasury Solicitors as it was deemed that there was a conflict of interest. I was also informed that I would not be entitled to funding for separate legal representation. The only reason one would not be authorised to have separate funding for legal representation in the event of a conflict of interest is if an individual's behaviour in their role at the time of the death had been seen to be so deficient as to be deemed 'deliberately reckless, negligent or malicious'. Effectively this annexed me and further stated my behaviour had fallen well short of the professional standards expected of all NOMS staff. There had been a long, delayed PPO investigation, a long drawn-out police investigation, in which I and

others were questioned under caution, and a subsequent crown court action brought against a member of staff into which we were called as witnesses for the prosecution. This case collapsed and a not guilty verdict was ordered to be returned by the recorder. Throughout this most difficult of times I had no contact from NOMS either of support or condemnation and the first letter I received was the one mentioned which essentially suggested a belief I was guilty of some form of misconduct. It is worth mentioning there had been no disciplinary hearing or prison investigation prior to this. After the intervention of John Attard and the PGA the decision not to provide separate legal representation was deferred and I received a passed-on message from my governor that I should await further advice. That advice arrived three months after - at the close of play on a Friday, with the final pre-inquest hearing listed for the coming Monday! This effectively revoked the decision to refuse separate funding but considered that a conflict of interest still existed. With a couple of hours' notice we secured the services of Mariel Irvine, the PGA Solicitor, and a barrister. I was finally called to give evidence in 2015, which, due



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to the complexities of the case, was listed for three weeks with **nine** barristers representing the various parties and organisations concerned. It was clear from an early point that the position of the family and the advocate was more than a little hostile towards me and the service and there was a great deal of scrutiny of the multi-layered decisions being made and the management of the risk. To this end policies, both local and national, were intensely interrogated. What is evident in such cases is the interpretation of policy by those applying it and by those, such as legal advocates, holding practitioners to account, particularly when there has been an incident, can, and in this case did, differ widely. In addition, where one policy failed to make the point they required, they moved to another policy which had a relationship with the processes which could also be applied but might say something slightly different. The thrust of this is to imply that we are experts in our fields; and that includes knowledge and application of **all** policies, no matter how remote some may be. There were a lot of technical arguments applied and the level of examination of the applicable policies was

intense. In some cases one policy applied a particular requirement but another policy, covering the same area, did not. There appeared to be requirements removed in one policy that still remained in others, which resulted in an argument as to which one to apply. There was also an issue, which resulted in the court being cleared while checks were made of policy leads in London, of when a particular policy came into effect. In this particular case, a policy being relied upon by the lawyers came into effect six months after the tragic incident. This point, and other technical and legal issues, were argued over many hours and continued into the following day. The importance of legal representation in such cases cannot be over-emphasised. The family's advocate also attempted to ask me questions in relation to the police interview I had attended and asked why I had submitted a prepared statement and then answered no reply. This cleared the court of jury and myself and was set aside when we returned. It was, however, indicative of a ploy more often seen in crown court to suggest certain things to the jury and create doubt only for them to be

retracted, but nevertheless the jury still heard it. Other matters were touched upon, training being one. I could reference the fact that eight weeks prior to the death we had a SAU visit for Safer Custody and received a green rating, a great deal of time being spent in the reception department with staff, an area where some staff were saying in this case they were unaware of policy. It is worth remembering the value of these audits if you are unfortunate to get mixed up in such matters. There was a clear belief from the advocates that ACCT is robust and virtually, fool proof. That is, if someone is on an ACCT, they cannot harm themselves or take their life, or someone in a double cell rather than a single cell equally cannot take their life. We know these things fundamentally to not be so. The ACCT process offers a much greater opportunity of support through crisis management, identifying issues, resolving problems and in so doing reduce risk. This may diminish the likelihood that someone will take their own life or self-harm but, with the best will in the world, will not totally eliminate that risk. After some four hours I emerged from the witness box. This can only be compared to being on trial

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with your job, picking away at decisions, policy application, your functional role, an expectation that because you carry the role, head of function, operational manager or duty governor that you have the answers to all the questions and ultimately you are responsible under article two of the Human Rights Act, the right to life, for all the prisoners in your care. If it were so clear and obvious to apportion blame then prisons would be full of prison managers, that is not the case but it feels as though there has been a shift in investigation, scrutiny and analysis of policy and decision-making. It clearly is not that straightforward but nevertheless it will not prevent the prison ombudsman, police, courts, coroners and legal institutions pulling to pieces the work we do on a daily basis.

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## PGA Comment

*It is a sad fact that many of us will find ourselves, or will have already had the experience of, giving evidence at an Inquest. Our condolences extend to all the staff, friends and family of those directly affected by the death of any prisoner as these will inevitably be traumatic*

*occasions. Having had personal experience of giving evidence as a governor grade at an Inquest, we can only concur with much of what is captured in this excellent personal account for which we are very grateful. The degree to which one's knowledge is tested can be extreme. This personal account began with the news that NOMS would not provide legal representation or authorise the funding of separate legal representation as a decision had been made that our colleague was deemed, by implication, to be "deliberately neglectful, reckless or malicious". This is a very serious accusation and most certainly should not have been made without a thorough investigation, the gathering of solid evidence and followed by a disciplinary hearing, if appropriate. That did not happen in this case but nevertheless NOMS felt able to make that assertion. NOMS, after the PGA intervention, did subsequently authorise separate legal representation (just hours before the pre-inquest review) and issued an apology. Whilst we should be pleased that the right decision was eventually reached we cannot go without remarking that a similar thing happened only a year before. PGA intervention in that case also resulted in the decision being overturned. The Civil Service*

*Management Code sets out the requirements in respect of civil servants who "may be involved in legal proceedings or formal enquiries as a consequence of their employment". It would not be unreasonable to expect that in such serious matters; particularly those that will unavoidably impact on staffs' families as well as the staff themselves, that NOMS would be particularly conscious of the importance of getting this decision right. When governors are carrying out their duties in the challenging conditions that working in prisons presents, then they are entitled to be supported when things do not go according to plan or if mistakes are made. We operate in an increasingly scrutinised setting where our decisions are subject to forensic analysis. This frequently takes place after the event, with the benefit of hindsight and by those with no or limited first-hand prison experience. We are pleased that in this case, and the previous case referred to, our members were supported and came through their experiences. We hope that NOMS will be more diligent in future decisions so that governors do not to go through the stress of worrying about no support as well as the stress of the event itself. It is also worth pointing out that the bill to NOMS for our*

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member's legal representation was **over £35,000.**

*If you would like to share your personal experiences, for the benefit of colleagues, please write to us.*

## Burnout!

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*By Dave Hoskins  
PGA National Officer*

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In early 2015, as a response to the National Officers of the PGA being frequently rebuffed in their pursuit of delivering mandates from Annual Conference with comments resembling "but there is no evidence to support what you are saying", a decision was reached to commission Keele University to conduct some research within the membership to accurately inform our future arguments. This research, it was hoped, would finally produce the evidence to academically support the facts that we already knew, but others were reluctant to accept. On receipt of the finished report in October 2015, it was shared with the membership and NOMS, headlines were shared with the media and it was submitted as part of the

PGA's written evidence to the Prison Service Pay Review Body for 2016.

In this, the first of several articles on this subject for the Newsletter, the headline findings of the research will be outlined and commented upon. Further articles will consider the number of hours we are required to work in excess of our contracted hours, workloads, the availability of work-life balance facilities to our membership and the range of interventions and services available to help individuals cope with the increasing pressures they face at work.

It is sometimes difficult to define workplace stress and the signs and symptoms of burnout that it can induce in ourselves and colleagues. Burnout is defined by the International Statistical Classification of Diseases and Related Health Problems as a "state of vital exhaustion" under the category of "problems related to life-management difficulty". Burnout is a prolonged response to long-term emotional and interpersonal stressors on the job. The key dimensions of

this response are overwhelming exhaustion, feelings of cynicism and detachment from the job, a sense of ineffectiveness and a lack of accomplishment. Recognise any of these in yourself or a colleague? Burnout is related to workload and time pressure, role conflict and role ambiguity, lack of social support, lack of feedback, lack of autonomy and lack of participation in decision-making. Burnout has been associated with absenteeism, intention to leave the job and staff turnover. Among those who remain in the job, burnout leads to lower productivity and effectiveness at work, decreased job satisfaction and a reduced commitment to the job or organisation. Burnout is associated with adverse health outcomes associated with stress, such as depression, musculoskeletal pain, type 2 diabetes, cardiovascular disease and premature mortality<sup>1</sup>.

Alongside burnout, another commonly used measure is work-related stress. Work-related stress is defined as a harmful reaction to undue pressures and

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<sup>1</sup> Interventions to prevent burnout in high risk individuals: evidence review, Public Health

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demands placed on employees at work. It is generally accepted that a degree of stress is positive for the individual, but it is when it gets too much that it becomes injurious and, in extremis, may lead to burnout as described above.

So what of the PGA's research in this area?<sup>2</sup>

The survey was responded to by over 40% of the membership, a remarkable number for such research and a fact that on its own may be seen as indicative of very strong feelings on the subject matter.

57.2% of respondents to the PGA survey work, on average, between 38 and 48 hours and, perhaps of more concern, 41.3% work over 48 hours per week. The most stated reasons for these extraordinary working hours included "because it is expected of me" and "in order to get all the work done", 91.0% working extra hours simply to "keep on top of the workload". 81.9% of the respondents indicated that their workload had increased over the previous year with 53.2% stating that

their hours had increased still further in that period too. Those extra hours, all of which are worked voluntarily, are, of course, worked in an extremely difficult job. It should perhaps come as no surprise to the intended readership of this article that these voluntary hours, being worked in order for members to cope with the workload currently imposed upon them, often results in work related stress. Not that good, motivational level of stress referred to above, but the bad sort, the sort that has 19.1% of respondents stating that they suffer work-related stress for over half of the time that they are in work and a remarkable 61% of all respondents candidly reporting that they had suffered stress-related ill health. Given that burnout is defined as a prolonged response to long-term emotional and interpersonal stressors on the job, these responses from PGA members should be sending danger signals to NOMS and the Ministry of Justice regarding the personal impact of their policies and practices on their staff.

Those signals should be considered in terms of

managerial response too. It has often been put to the PGA that NOMS have a range of work-life balance provisions available for all staff to assist in their efforts to avoid work-related stress. These provisions will be discussed in a later article, but it is vital that NOMS are aware that, in the current working arrangements, 56.5% of the respondents reported difficulties in sometimes achieving work-life balance and 32.5% found it difficult to achieve that balance at all. Often, work-life balance provisions are unavailable to PGA members and, despite occasional intense marketing, support services are perceived by the membership to be ineffective.

NOMS and the Ministry of Justice should also consider the effects that this high level of stress and the perceived lack of access to the available provisions for work-life balance amongst the membership is having on the motivation of their senior managers. 59.9% of respondents reported being demotivated by the immense number of changes affecting their jobs and 42.5% that they will consider changing jobs if conditions remain as they are.

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<sup>2</sup> French. S. (2015), *Fair and sustainable? The implications of work intensification for the*

*wellbeing and effectiveness of PGA members.*  
Available at:  
<http://www.academia.edu/19772>

443/Fair\_and\_sustainable\_The\_implications\_of\_work\_intensification\_for\_the\_wellbeing\_and\_effectiveness\_of\_PGA\_members

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Given that the key dimensions of burnout include feelings of cynicism and detachment from the job, a sense of ineffectiveness and a lack of accomplishment and that it is often associated with absenteeism, intention to leave the job and staff turnover, the statistics shared above surely suggest that further examination of these issues by the employer is warranted?

The last strand to consider in this first article is the culture of the working environment, and here we may be able to help ourselves. 60.1% of our respondents stated that "management" had not helped them cope with the causes of stress and the memberships' comments highlight some of the barriers to securing a work-life balance and to dealing with stresses imposed by management in a culture of "getting on with it". But those comments are not just aimed at Directors of the Public Sector Prison Service or NOMS headquarters, they are relevant to managers of all grades which, naturally, includes the vast majority of our membership. Culture is difficult to measure, but perhaps this is one area of concern that the membership can occasionally sort for themselves and each other -

despite the pressure to perform, the deadlines, the over-centralisation, the bureaucracy, take the time to treat your colleagues with understanding, compassion and respect and make sure the workloads you are holding them responsible for are capable of being completed in the allotted 37 hours per week and within the competencies of the individual concerned. If they aren't, do it differently.

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## Prison Service Pay Review Body

### Government's evidence on the E-List!

The target date for the submission of evidence to the Prison Service Pay Review Body (PSPRB) was September 2016. Dave Hoskins, on behalf of the NEC and PGA members, had the PGA submission written, checked and ready to go. The Government's evidence, prepared by NOMS, on the other hand, was not. Despite many attempts to meet, NOMS consistently either failed to appear or, when they did appear, had little to say. The PSPRB was set up as a compensatory measure because our right to protest

about any of our working conditions by way of industrial action was turned into a criminal offence. The PSPRB was established as independent arbiter of salary for prison governors and operational staff. Their role would be to make fair and transparent wage increases taking into account the evidence submitted by unions, by the employer, the economic conditions of the time, and other factors affecting prisons. It should be the case that if the PSPRB does its job well, the need to take industrial action, on matters concerning pay at least, should not exist because we would be confident that any pay rises awarded, or not, were appropriate in the circumstances. Confidence in the PSPRB is not high at the moment particularly taking into consideration the dismal pay awards over recent years. One reason for the delay, NOMS will say, is due to governors rejecting the prison reform offer. We would point out that it was NOMS who surprisingly joined prison reform with pay and pensions, and made a derisory three-year pay offer. With inflation looming and public sector workers bearing the brunt of austerity it was no surprise it was unequivocally rejected. We wait now for government to

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get its act together and submit its evidence so that the PSPRB can decide how to apportion the 1% between Prison Service staff. What would be refreshing, of course, is if the PSPRB followed suit of the judges' pay review body and recommend a pay award between 12 and 15 per cent due to chronic recruitment difficulties and the fact we now pay more for our pensions. Even the patience of Dr Peter Knight CBE, Chair of the PSPRB has been tested and he has written to the Prisons Minister to that effect. We look forward to reading the response and we will, of course, keep you posted.

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## Advanced Prison Officer

Having spent years denying the added value of the specialist skills some staff have acquired such as hostage negotiators, first aiders, ACCT assessors, and C&R advanced officers, to name a few, NOMS have now decided to acknowledge them. By referring to NOMS denying the added value of these skills I am, of course, making specific reference to the lack of payment for almost all of

these additional skills as opposed to the platitudes usually rolled out after high-profile incidents.

A payment for taking on additional duties or responsibilities has been a key mechanism in industry and in the military for many years. As a capitalistic society there is no lack of appreciation or understanding for the place financial incentives have in bringing out the best in people or for recognising effort over and above what is expected. In fact, the biggest threat, arguably, to the public sector in the last twenty years, including the Prison Service, has been the threat of privatisation – the running of prisons by those driven by profit and answerable to shareholders.

The decision, therefore, to stop paying allowances is very hard to comprehend. The aversion to reintroducing allowances is so great that NOMS, rather than make a payment for taking on additional roles or responsibilities, has decided to shoehorn it into a job evaluation system (JES) already broken beyond repair and, in effect, to promote the officer from Band 3 to Band 4.

The actual proposal is for prison officers who are trained as mentors and qualified first aiders to

become a Band 4 'Advanced Prison Officer' (APO) if they also acquire one of four other skills. These are, advanced C&R officer, Hostage Negotiator, ACCT assessor or enhanced searcher. Once they have achieved this, through a selection process yet to be devised, they are Band 4s. If they no longer perform any one of these additional skills they will revert to Band 3 officers.

We asked at this meeting if that meant that these new APOs would have supervisory duties and we were told, categorically, no. We would remind NOMS that under F&S changes officers in PE, Industries, Offender Management and ETS were made Band 4. The PGA were told, when we raised concerns about them taking on Senior Officer-type duties, that the system made it mandatory for them to take on these supervisory duties. When we asked what epaulettes an APO would wear we were told they would remain unchanged, the same as an officer.

There will no doubt be many questions in readers' minds and we had some too. We asked why these duties were now being given a JES value when they were not before. In the Fair & Sustainable Operating Guide there is a paragraph that states:

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*“Additional tasks that are not specific to an individual’s job description such as Care Team, First Aid, P-NOMIS Administrator are included in the following link. (Which does not work). The work has been evaluated under JES so that the correct level individual can undertake the task but it will not appear in the actual job description.”*

When we referred to this paragraph we were told that it is because these duties, as an APO, would be mandatory. To put it another way, and this is what we were told, these additional duties do not get evaluated if they are voluntarily undertaken. When we raised the risk that some officers and other staff, including SOs, CMs, and governor grades might now stop doing this if they are not paid because they are ‘voluntary’ we were told that it was a risk they had acknowledged.

We also pointed out that now that these duties were being JES’d they would need to revisit operational managers’ JES scores as all operational managers, in prisons at least, must be trained to at least ACCT Case Manager level as this was not a voluntary duty but a mandatory requirement.

We then asked about other additional duties that

had not been taken into consideration, which in some cases were equally crucial to the running of a prison - for example: Family Liaison Officer, ACCT Case Manager, C&R Instructor, staff working with young people, and the Care Team to name a few. It was acknowledged that these were important roles and it was also apparent, in our view, that some had not been taken into consideration at all. We were told that the professionalization of all grades was a goal but that NOMS had to start somewhere. The PGA response to that was that it should not have been announced until at least the main elements had been discussed and agreed with unions.

Finally, we asked about the budget to pay for these more expensive staff. We had seen the budget letters that had been issued to governors, which made no reference to additional money for APOs. This was confirmed in our meeting and we were told that a request had been made for additional funding but there was no answer yet. In short, governors will have to find the money out of their own budgets unless additional funding is provided. The reality is that governors will struggle to find the money whilst now having to manage staff who may well take

umbrage when they discover that because they volunteered to do additional duties they will not get paid, unlike those for whom it is mandatory.

It is a rather paradoxical but not unusual situation it seems. Those members of staff who might be described as jobsworths for not working outside their job descriptions are frequently seen as troublesome but will end up being paid more whilst those who give more when asked will be seen as volunteers and paid less.

This really is a mess and it is quite apparent that MoJ is desperate to make headline-grabbing statements on progress rather than genuinely tackling the important job of reforming prisons. For those readers who might consider the PGA view on this latest initiative as unfairly harsh I remind you that we warned NOMS about the loss of the PO grade, the banding of specialist grades, the removal of line management responsibility from SOs, the introduction of Executive Governors and the flaws in prison complexity, F&S and JES. There is no satisfaction in saying ‘I told you so’ after the event when solutions could have been found if we worked collaboratively.

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# Casework

## Representation in the field

The volume of casework we take on is high and members of the NEC constantly have at least one or two on the go throughout the year. Some cases are more serious than others and some result in us taking legal action.

The PGA success rate is very high. That does not mean that we have won them all or that all cases have been resolved to members' satisfaction but most have been, including successes at Employment Tribunals (ET). We will not defend the indefensible and if mistakes have been made we will represent our members with total commitment, mitigating where necessary and seeking legal advice where it is merited.

In a recent case a governor grade was dismissed for an incident that had occurred over six months prior and had already been investigated to the then Governor's satisfaction. It involved a one-off altercation between two colleagues and friends who instantly regretted what happened and remain friends afterwards. Regional Office was made aware of this cold case and decided to

reopen it, commissioning someone they knew to re-investigate. This resulted in a disciplinary hearing where the governor grade was dismissed. There were a catalogue of procedural errors, breaches of natural justice and ruling out of good evidence. Following the dismissal there was an appeal, which was unsuccessful. Notwithstanding that our dismissed colleague was eligible to retire, we took the case to an ET. This case was not just about the individual but also about the application of the law and internal policies. I am delighted to be able to report that NOMS conceded the case and a substantial out-of-court settlement was made. This was a just victory for our colleague, who was represented by Dave Hoskins and our retained solicitor Mariel Irvine. It was also a victory for the membership and a reminder for NOMS that we will not see our members being treated unfairly.

Another case we were successful in recently was in regards to a colleague who had been temporarily promoted for a considerable length of time at the request of his bosses. He had been prepared to revert to CM, bearing in mind that this gave access to paid overtime and, a fixed number of hours in the week if that is what he wanted. However, being good at his job he was persuaded to stay acting up and when he was successful with the operational managers JSAC was

substantively promoted. The problem was that his promotion resulted in a serious pay drop. That is not a typo. Subsequently he found himself accruing debts as a result of over-committing himself on the back of assurances he had been given at the highest levels. Following unsuccessful grievances we did two things – instructed our lawyer, Mariel Irvine, to take on his case and wrote directly to the Director of HR. The letter to the Director was to point out the strength of our case due to significant failures in how the case had been handled and the appalling way a member of staff was being treated. I am pleased to say that this was another case settled out-of-court with a satisfactory outcome for our member.

So, all is well? No – our members should not have to resort to employing the PGA and our solicitor to tell NOMS to do the right thing. What I have shared with you is just the tip of the casework iceberg. Please do not make the mistake of assuming that because you have done nothing wrong and work hard you will not end up at the wrong end of a series of bad decisions.



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# Empowerment & Service Level Agreements

So we have gone from governor ‘autonomy’ to governor ‘empowerment’. What does this mean? The problem is no one really knows because it is being made up as we go along. The one consistent element of the biggest shake-up of the prison service in a generation is Governor accountability.

The freedoms to carry over underspends has already gone and many national contracts appear to still be in place with only some minor changes. Governors will be able to go outside national contracts but, and here is fly in the ointment, they will not have the budget. The same applies to changing management structures and the proposed introduction of the Advanced Prison Officer. The PGA asked at the very beginning of this journey for transparency in regards to the six early adopter prisons, particularly pertaining to finance, and we were assured we would get it. We are aware that additional funding was found for the early adopter prisons but we don’t know how much. We are also aware that no additional funding has been provided for the rest of the prison estate as it makes the transition.

The PGA has met with MoJ on a number of occasions in consultation over the new SLAs and each time changes have been made in response to our concerns and suggestions. Whilst that is positive in one sense, it is deeply troubling in another. A change of this magnitude needs to be given sufficient time to get it right from the outset or as close to it as possible. Work on the *Performance and Assurance Framework: Enabling Accountability* was complete as early as June 2016. Consultation with the PGA, however, only began around six weeks ago despite promises that there would be full consultation from the outset. It is hardly surprising, therefore, that we have reservations with the new proposals that are being echoed by prison governors up and down the country.

Despite the rhetoric, the new measures appear to be no more or less different in meaningful terms to the old measures save that governors will be more accountable. Furthermore, following a question from the PGA, it was confirmed that Governors would still be subject to HMPPS targets to be set separately on top of the additional performance measures. We are informed that pressure is being brought to bear to get the new SLAs signed by Governors notwithstanding the additional measures have not been confirmed and may take six to eight weeks to resolve. The late addition of HMPPS targets has thrown a spanner in the works of an already creaking machine and put matters back further.

We have had a number of written assurances from senior officials that there will be a lead-in period with the new performance measures but the difficulty we have with this is that these assurances have not made their way into the SLAs in a form that can be measured. The risk, therefore, being that the assurances will not amount to much if targets are not achieved – either this year or beyond and the Governor is held to account. This concern is not about the PGA stopping Governors being held to account, it is about stopping them being held to account for matters beyond their control. League tables, notwithstanding assurances to the contrary, remain a serious concern and are not supported by anyone except the MoJ. The way the assurances are written leaves the door open, in the PGA’s view, to them being introduced despite assurances to the contrary.

Our desire to support prison reform and governor empowerment remains undiminished but we cannot support it at this stage. We cannot, in all consciousness, advise Governors to enter into an agreement with the Secretary of State when there are significant gaps in what is expected to be delivered and the consequences of not achieving may be serious. The advice given in our bulletin of 26/1/17, number 708 remains extant. We will continue to work with MoJ and HMPPS to produce an agreement that is clear and delivers much needed improvements.

# JES

## What are NOMS afraid of?

*By John Attard, PGA National Officer*

Anyone who works in NOMS, and particularly in prisons, is acutely aware of the restrictions imposed by the job evaluation scheme (JES).

The declared purpose of JES according to the ACAS guidelines, "... is a method of determining on a systemic basis the relative importance of a number of different jobs."

The NOMS' scheme is called 'The Factor Plan'. Its declared design criteria was that it should be:

- Analytical, unbiased and capable of minimising the risk of future equal value claims
- Customised to meet the distinctive requirements and characteristics of the organisation
- Capable of being applied, fairly and equitably, across all parts and levels of the Service up to (but not including) Senior Civil Service levels

- Transparent, participative and easy to understand, so that jobholders and their managers can have a clear understanding of the basis on which roles have been evaluated
- Simple to operate and apply, enabling roles to be evaluated accurately and efficiently.

So, with such lofty aspirations, has the design criteria been met? The PGA believes not and, more importantly, our members, according to the frequent emails we receive and during conference debates, believe not.

**We will not be intimidated into conceding ground on important issues for short-term gain with damaging long term implications.**

The PGA has been challenging NOMS on JES since July 2014 with some, but limited, progress having been made. The limited progress made was the re-evaluation of an operational manager job description, which took place on 23/12/14. This resulted in the score of the job increasing but not enough to make any difference. There is a good reason for that; the system

used by NOMS is not capable of sufficiently distinguishing between operational and non-operational roles.

Jobs are evaluated by giving scores to job evaluation factors, which will be higher or lower according to the job being evaluated. Many of you will be aware of these factors but for those of you not familiar with them, here they are:

1. Skills and Knowledge
2. Accountability and Decision Making
3. Problem Solving
4. Resource Management and Financial Impact
5. Organising and Planning
6. People Management
7. Information Management
8. Influencing and Interaction
9. Emotional Demands and Risk

This all seems straightforward and one would think that it would be relatively easy to get something close to an accurate and fair score. The problem is that it does not and 'somewhere close' is not good enough. Does it matter if the scores are not accurate? The answer to that is yes since the score determines what band your job is in **and your band determines what you are paid**. That means if a governor grade is in the same band as a non-operational manager, they are paid exactly the same. However, the jobs they perform are **very**

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different and the risks, breadth of knowledge and emotional risks and demands are simply greater.

**Factor 9, 'Emotional Demands and Risks'** was introduced as an evaluation factor at the insistence of the PGA. We wanted the differences between operational and non-operational roles to be recognised and Factor 9 was meant to do that. The problem is that Factor 9 has not been able to achieve what it was meant to for a number of reasons.

All factors, score between 1 and 6 points, with the exception of Factor 9, (the operational factor) which only scores between 1 and 4, and all jobs automatically score 1 point. In our research we discovered that no operational manager job scored more than 2.5 for Factor 9. Consequently, the maximum difference between an operational and non-operational job in regards to their respective Emotional Demands and Risks, was just 1.5 points. In fact, not one single job scores the maximum of 4 and only one job in the entire suite of jobs scores 3.5 and that is for an officer working in a closed supervision centre.

However, for some jobs, Factor 9 makes no difference anyway as they can

be done by either an operational or non-operational manager, such as the Head of Reducing Offending or Head or OMU, for example. If Factor 9 was introduced to recognise the emotional risks and demands of operational staff then Factor 9 should be rescored to take account of who is actually doing it – governor grade or a non-operational manager? The fact is that it is not rescored, rendering Factor 9 pointless as it does not do what it was meant to do.

There are many other elements of JES that we are challenging, which I cannot expand upon in this article as it may still be challenged via formal dispute resolution. I can, however, share some interesting observations:

1. The Regional H&S Advisor scores more than a Deputy Governor of a Complex & Diverse prison such as Wandsworth, Leeds, Whitemoor or Belmarsh, for example.
2. The now retracted Senior Controller job description was banded the same as a governing governor and scored higher in some factors.
3. One non-operational job description under the factor heading of Emotional Demands and Risks included these comments: *“Occasionally exposed to pesticides /*

*hazardous waste / broken furniture / potentially dangerous machinery, although they will have been trained to handle this and wear correct clothing/PPE.”*

4. No operational job, including all uniformed staff, jobs have a Factor 9 score of more than 3.5.
5. Operational managers spend, on average, 20% less of their time carrying out their own functional work.

The PGA gave notice that we reluctantly intended to serve a 'Failure to Agree' (FTA) on NOMS in February last year. This followed months of fruitless meetings and negotiations and we felt that we had exhausted all options to resolve it. We were asked to consider not submitting it as NOMS were going to have a meeting to discuss it further. We duly considered the request to suspend the submission but felt compelled to continue as intended. The reasons for that, which we communicated to NOMS, were:

1. The length of time this issue has been live.
2. NOMS's robust defence of JES following the PGA letter to the Director of HR dated 29/07/15 where we raised our detailed concerns.

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3. Deficiencies in JES we have identified since that letter and NOMS's inability or unwillingness to address them.
  4. The decision of NOMS to deprioritise the review of Factor 9 (Emotional Demands and Risks).
  5. The decision to dilute, in our view, the review of the role of duty governor, which has still not been shared with the PGA.
  6. NOMS had agreed to review operational managers' job descriptions by 14 November 2014. This commitment was given as a condition for the PGA withdrawing its FTA. The review has not been carried out and is now two years overdue. This is in breach of that commitment and notwithstanding the fact that there is evidence to show that operational managers' job descriptions are underscored when taking into consideration the role of duty governor and conducting adjudications.

This is not a complete list of our concerns with JES, only those which formed part or our decision not the delay submitting an FTA. The FTA was submitted and we were due to have the issue arbitrated on with ACAS on 6 April, 2016. NOMS then wrote

to the PGA and the details of that letter and subsequent communications are captured in the C&R article on page one of this newsletter. In summary, NOMS demanded the PGA withdraw the FTA or they would not negotiate the value of the C&R retainer they had agreed to pay. We did withdraw the FTA but NOMS

**Most recently, we were told that if staff volunteered to do a task, such as ACCT assessor or negotiator, it would not be considered as part of the job for JES purposes because it was voluntary**

still has not negotiated the value of the C&R retainer. It was an equal pay claim by non-operational staff that resulted in the introduction of JES to address what was seen as an imbalance. It is not for the PGA to comment on whether it was or not but what is abundantly clear is that the system NOMS brought in is unfair for prison governors and probably for uniformed staff as well. The pendulum has swung too far and this needs to be urgently addressed. JES continues to produce unfair practices and we are being informed of more almost on a weekly basis. This is only set to

increase as Fair & Sustainable-imposed staffing structures are consigned to the bin of 'another failed experiment'.

Most recently, we were told that if staff volunteered to do a task, such as ACCT assessor or negotiator, it would not be considered as part of the job for JES purposes because it was voluntary. Why does this matter? Well, if staff choose to do it to become a Band 4 'Advanced Prison Officer' they will be required to do it if they want to remain a Band 4 so it will then be considered part of their job and is therefore attributed a value or score for JES purposes. We pointed out that there is a risk that staff who currently 'volunteer' to carry out these tasks may now choose not to do them as by volunteering they are harming their own pay. This was acknowledged by NOMS who accepted that this was a risk. We also pointed out that our members were required to be ACCT case managers, a mandatory requirement, and this was not being scored for JES purposes. In regards to C&R, we were told that we do not have to do it and so it was not considered for JES purposes.

We have had a clear steer from the membership on JES and will be taking action to address this unfair system at the appropriate time.

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# Northern Ireland Matters

The three prisons in Northern Ireland (NI) are, in many ways, no different to the prisons in England, Scotland and Wales. They have many of the same issues such as staffing levels, drugs, the availability of resources, and performance targets, for example. There is, however, an operational challenge, specifically in HMP Maghaberry, between embracing a progressive and rehabilitative prison culture whilst still maintaining the necessary boundaries, vigilance and security that a small separated population demands. Whilst these may not need to be mutually exclusive goals, the challenge must be recognised and acknowledged. Operational staff in NIPS still carry a firearm for personal protection due to the nature of their job, but only when outside of work. It could be described as somewhat trite when I say this is not an easy task for governors to manage. This is particular so taking into consideration recent major events – the murder of two prison officers during my time on the PGA NEC and a highly critical inspection report into HMP Maghaberry in May 2015. The officers killed were Mr David Black on 1 November

2012 and Mr Adrian Ismay on 15 March 2016. Both were aged 52 and left a widow and children behind.

The inspection into HMP Maghaberry highlighted just what a difficult place to govern the prison is and was described by Nick Hardwick as the "most dangerous prison" he had ever been in during his time as a chief inspector. Unfortunately, the blame was laid solely at the door of the local management team in the prison and not at HQ level that influenced much of what was happening in the prison, specifically resources and staffing levels. The PGA gave evidence at a subsequent Justice Committee and pointed these matters out. The Chair of the Committee commented that it appeared that NIPS senior prison managers "threw the Governor under the bus". The blame apportioned to the local management team was both disproportionate and lacked evidence.

Prior to the inspection, the PGA Chair (NI) had been threatened with removal from the prison following his raising of concerns with the lack of external support to tackle threats to our members from dissident republicans. The inspection of Maghaberry, we believed, provided the opportunity to carry out that threat and the PGA Chair (NI) was removed from his post

and transferred out of the NIPS. The PGA took the matter to an Industrial Tribunal in Northern Ireland on the grounds of discrimination of a trade union official. This was a high profile news story in NI and coverage on day one was captured on the front page of the Belfast Telegraph and appeared in the paper for the following two days – the duration of the hearing. (See PGA website for the press release issued after the hearing).

The outcome will not be known for about six weeks but win or lose it was the right thing to do. Court case results can be capricious and decided, one way or the other, on a technicality. The case produced was strong and the PGA sent out a very clear message – we will defend our hard earned union rights. This has been recognised and positively welcomed with membership of the PGA in Northern Ireland growing close to 100 per cent in the last year.

There has now been a changing of the guard at the very top of the Northern Ireland Prison Service with a new Director, Mr Ronnie Armour. We wish him the best of luck in his new role and look forward to meeting with him in the near future.

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# Fair and Open Competition

## Whatever happened to it?

The PGA has been concerned for some time with the opaqueness of NOMS's promotion and recruitment arrangements. This concern is borne out of our own observations, the frequency of contact made by PGA members about this issue, the length of time so called 'temporary' promotions last, the lack of jobs being advertised, the obscurity around the information available on the surplus list and the mystery surrounding some appointments. The oft-heard comment when a position is advertised is, "... any point in me applying or has a decision already been made?" Then there are the managed moves and, most recently discovered but less frequently used, managed **promotions**.

The rationale of a purely managed move or promotion would appear to be that the situation is so urgent or the issue so pressing that it justifies not using the preferred selection method whose principles can be traced

back over 160 years ago with the setting up of a Civil Service Commission. The Civil Service Commission requires that for appointments to be legal they must be made on merit based on fair and open competition. How this applies in NOMS in regards to promotions is less clear. However, it would not be unreasonable to assume that NOMS will follow these rules and the PGA has written to NOMS regarding this.

Why is it important for an open and transparent promotion process? There are many reasons but the first has surely got to be because it is the best method for ensuring the best organisational performance as it is more likely to result in the selection of the best candidate. Conversely, a corrupted recruitment and promotion system will result in organisational stagnation or failure. Other reasons would include:

1. Providing candidates with the opportunity to showcase their competencies and potential in the higher grade.
2. Providing NOMS with a better chance to discover potential.

3. Protecting the promotion panel from accusations of bias.
4. Preventing the recruitment of 'minimes.'
5. Encouraging the most able to apply.
6. Generating a genuine sense of competition and fair play.
7. Demonstrating to the workforce that if you work hard you can succeed.
8. Demonstrating that equality and diversity is taken seriously.
9. Meeting the requirements of the Nolan Principles and the Civil Service Code.

PGA members ask what the PGA can do about it. We have raised it with NOMS on a number of occasions, including at NOMS Board level, and reminded them of the need to follow the approved procedures as set in relevant Civil Service procedures and NOMS' own policy. In a number of conversations the PGA has had with NOMS on this matter, one of the responses we received was that there are not enough people applying for particular jobs. This may be true but what NOMS has failed to do is to fully explain what the cause for this is. NOMS employs over a thousand operational

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managers; it is hard to believe that there is insufficient talent out there. Having said that, with such strong central prescription over the last 10 years, it is hardly surprising if some skill-sets have contracted during that time.

One theory for a lack of applications, however, might be that there is such little faith in the credibility of the process that potential candidates are simply not applying in the first place. The level of effort and detail required in the application process is onerous and people are not going to put that much effort in if they think it is stitched up. Also, if there is a dearth of talent, as implied, then what are NOMS doing to address this, particularly taking into account the comment above? Also, the pay band structure we are fettered by, may no longer be able to entice sufficient talent. Fair and Sustainable and JES have done little to encourage governors to take on the most difficult jobs with pay not changing, or in some cases going down, on promotion or when taking on a more difficult prison. This, along with stagnant or deteriorating reward, relocation, and incentive policies all contribute to the inability to recruit or promote in the numbers needed.

There are some gifted and hardworking practitioners in NOMS, who deserve to be where they are, however they got there. However, if the enquiries and anecdotal evidence, along with what has been observed, is anything to go by, NOMS could do so much better. Appointments or promotions should not be based on a feudal system that rewards loyalty at the expense of talent.

The importance of insisting on fair and open competition and that appointments are based on merit and not on previous or current activities, affiliations, or some other irrelevant factor has never been more important than it is now. The creation of autonomous governors with the potential for even less adherence to well-established protections afforded by Civil Service policies, places the vast majority of our members at greater risk. Rumour is rife about who has got what job and who the winners and losers are. The PGA could not formally comment on rumour but we have seen no evidence for example of the jobs in the 'early adopter' prisons being advertised or an increase in the number of vacancies being advertised.

The PGA is witnessing a lack of confidence in this

massively important area with NOMS either sanctioning or turning a blind eye to the atrophy of ambition as potential candidates prefer not to give credibility to the façade of procedural propriety by applying for jobs that don't really exist.

There are many bona fide boards that have been held, and will be held, which must not be included in this, and which have selected outstanding candidates. Whether all boards are genuine is the question we are faced with and we ask, is it time for NOMS to reconsider how confident they are in their own processes? Are they compliant and do they select the best candidates? The impact this is having on prisons must be given the predominant consideration. Adherence to a well-established policy of fair and open competition where appointments are made on merit will provide prisons with the best chance of success, along with improving pay, staff development and an intelligent incentive and reward package.

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## Upcoming Events

- Mon 3 April - Civil Service Resourcing Changes Meeting
- Tue 4 April - Digital Prisons Update (Annex A), IEP Meeting, BDG Meeting
- Wed 5 April - Health and Safety Sub Whitley  
HR and Equalities Sub Whitley
- Thu 6 April - Violence Statistics Meeting
- Tue 11 April - PGA TU Reform Engagement  
Meeting with Sam Gyimah MP, Prisons Minister
- Wed 12 April - National officers' meeting
- Thu 13 April - PGA National Executive Committee Meeting
- Thu 20 April - Westminster Legal Policy Forum: Prison reform in England and Wales

## PGA Annual Conference 2017

The PGA Annual Conference 2017 will take place between 10 and 11 October at the Radisson Blu East Midlands Hotel, the same venue which has held the event in both 2015 and 2016.

Please mark the event in your diaries. We will send out further details, including a booking form, over the coming weeks. We look forward to seeing as many of you as possible in October.

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Follow us on Twitter and we will keep you up-to-date on the activities of the National Officers and the NEC.

Any questions – why not Tweet us?



@PGA\_Prison  
or  
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## Prison Governors' Association

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